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**CERTIFICATE OF MAILING PURSUANT TO 37 C.F.R. §1.8**

I hereby certify that this correspondence and attached document pursuant to 37 C.F.R. §1.8, are being deposited with the United States Postal Services as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on:

Date: August 15, 2005

By Debra M. Richardson

Signature of Person Depositing Mail



PATENT

**IN THE UNITED STATES PATENT AND  
TRADEMARK OFFICE**

Applicant:	Tim Dyer et al.	Docket No.	35013.4000
Serial No.:	09/836,426	Filing Date:	April 17, 2001
Art Unit No.:	3723	Examiner:	McDonald, Shantese L.
Title:	CHEMICAL MECHANICAL POLISHING METHOD AND APPARATUS FOR REMOVING MATERIAL FROM A SURFACE OF A WORK PIECE THAT INCLUDES LOW-K MATERIAL		

**RECEIVED**

*AUG 19 2005*

**OFFICE OF PETITIONS**

**PETITION TO REVIVE  
ABANDONED APPLICATION**

Commissioner for Patents  
Mail Stop: Petitions  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Commissioner:

Applicants, by and through their undersigned counsel, hereby petition for revival of the above-captioned application. The application became abandoned for Applicants' purported failure to timely respond to the October 20, 2003 Office Letter.

10/20/2005 AKELLEY 00000012 192814 09836426

01 FC:1452 500.00 DA

08/18/2005 TBESHAKH2 00000016 192814 09836426

01 FC:1453 1500.00 DA

On June 16, 2005, Applicants received a Notice of Abandonment alleging a failure to respond to an Office letter dated October 20, 2003 in the above-captioned application. Applicants disagree with the assertions set forth in the Notice of Abandonment and timely submit this petition to revive.

As set forth in the Declaration of Cynthia L. Pillote (Exhibit B), on June 14, 2004, the Examiner left a voicemail message for the undersigned stating that the Examiner would issue a new, non-final office action. Applicants relied on this statement by the Examiner and thus took no further action in the case.

Since Applicants purported failure to timely respond was based on the Examiner's assertion that another office action would be issued, Applicants delay in filing any further response was wholly unavoidable. Further, the entire delay from the due date for the reply until the filing of this petition pursuant to 37 C.F.R. § 1.137 and the required reply was unavoidable. Petitioner has included herewith the required reply in the form of an RCE.

The Commissioner is authorized to charge the petition fee of \$500 (Fee Code 1452) and the RCE filing fee of \$790 (Fee Code 1801) to Deposit Account No. 19-2814. The Commissioner is also authorized to charge any deficiency or to credit any overpayment to Deposit Account No. 19-2814, **for which purpose a duplicate copy of this Petition is also enclosed.**

In the alternative, Applicants submit that the failure to timely respond was inadvertent and wholly unintentional. Further, the entire delay from the due date for the reply until the filing of this petition pursuant to 37 C.F.R. § 1.137 and the required reply was unintentional and petitioner has included herewith the required reply in the form of an RCE.

The Commissioner is authorized to charge the petition fee of \$1,500 (Fee Code 1453) and the RCE filing fee of \$790 (Fee Code 1801) to Deposit Account No. 19-2814. The Commissioner is also authorized to charge any deficiency or to credit any overpayment to Deposit Account No. 19-2814, **for which purpose a duplicate copy of this Petition is also enclosed.**

### CONCLUSION

If Applicants' petition to withdraw abandonment, filed contemporaneously herewith, is not granted, Applicants respectfully request revival of the application. The Examiner is invited to telephone the undersigned at (602) 382-6296 at the Examiner's convenience, if that would help advance this petition. If necessary, the Commissioner is hereby authorized to charge payment or credit any overpayment to Deposit Account No. 19-2814 for any additional fees required under § 1.137(a) or (b).

Respectfully submitted,

Dated: 8/15/05

  
Cynthia L. Pillote, Reg. No. 42,999

**SNELL & WILMER L.L.P.**

400 E. Van Buren  
One Arizona Center  
Phoenix, Arizona 85004-2202  
Phone: 602-382-6296  
Fax: 602-382-6070  
E-mail: cpillote@swlaw.com

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**EXHIBIT B**

**IN THE UNITED STATES  
PATENT AND TRADEMARK OFFICE**

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**UTILITY PATENT**

Applicants: Tim Dyer et al.

Docket No.: 35013.4000

Serial No.: 09/836,426

Art Unit No.: 3723

Filed: April 17, 2001

Examiner: McDonald, Shantese L.

For: **CHEMICAL MECHANICAL  
POLISHING METHOD AND  
APPARATUS FOR REMOVING  
MATERIAL FROM A SURFACE  
OF A WORK PIECE THAT  
INCLUDES LOW-K MATERIAL**

**RECEIVED**

AUG 19 2005

**OFFICE OF PETITIONS**

**DECLARATION OF CYNTHIA L. PILLOTE IN SUPPORT OF  
PETITION TO WITHDRAW HOLDING OF ABANDONMENT AND  
PETITION TO REVIVE ABANDONED APPLICATION**

- 1) I, Cynthia L. Pillote, make this Declaration in support of the accompanying Petition to Withdraw Holding of Abandonment of the above captioned Patent Application, and the Petition to Revive Abandoned Application, for which application I am attorney of record and which I prosecuted before the United States Patent and Trademark Office.
- 2) On December 15, 2003, I discussed the present case with the Examiner regarding the outstanding office action.
- 3) On December 18, 2003, I left a voicemail message with Examiner McDonald regarding the status of the case.
- 4) On January 16, 2004, I left another voicemail message with Examiner McDonald to follow up regarding the status of the case.
- 5) On May 21, 2004, I left another voicemail message with Examiner McDonald regarding the status of the case.
- 6) On June 1, 2004, I discussed the case with Examiner McDonald and faxed to her the Notice of Recordation of Assignment Document for the present invention that indicated common ownership between present invention and cited reference.
- 7) On June 3, 2004, I left a voicemail message with Examiner McDonald regarding the fax sent on June 1, 2004 that included the Notice of Recordation of Assignment Document

for the present invention, evidencing common ownership between the present invention and the cited reference.

8) On June 7, 2004, I discussed with Examiner McDonald the assignment and common ownership issues.

9) On June 8, 2004, I left a voice mail message with Examiner McDonald regarding the status of the case and inquired about the issuance of a new office action.

10) On June 14, 2004, I received a voice mail message from Examiner McDonald stating that she had found someone to discuss the case with, and that a new first or non-final action would soon be issued.

11) On June 24, 2005, I left a voice mail message with Examiner McDonald regarding the status of the case.

12) I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing therefrom.

Date: 8/15/05



Cynthia L. Pillote  
Reg. No. 42,999

1710437

# EXHIBIT B

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

### UTILITY PATENT

Applicants: Tim Dyer et al.

Docket No.: 35013.4000

Serial No.: 09/836,426

Art Unit No.: 3723

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Examiner: McDonald, Shantese L.

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OFFICE OF PETITIONS

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12) I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing therefrom.

Date: 8/15/05

  
Cynthia L. Pillote  
Reg. No. 42,999

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